

ESTTA Tracking number: **ESTTA558854**Filing date: **09/11/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	VINA SAN PEDRO TARAPACA S.A.		
Entity	Corporation	Citizenship	Chile
Address	VITACURA NO 4380, VITACURA SANTIAGO, CHILE		

Attorney information	Leigh Ann Lindquist Sughrue Mion PLLC 2100 Pennsylvania Avenue Suite 800 Washington, DC 20037 UNITED STATES llindquist@sughrue.com, mjimenez@sughrue.com, tm@sughrue.com Phone:2026637409
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Applicant Information

Application No	85680552	Publication date	08/13/2013
Opposition Filing Date	09/11/2013	Opposition Period Ends	09/12/2013
Applicant	Llano Estacado Winery, Inc. P.O. Box 3487 Lubbock, TX 79452 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2008/07/00 First Use In Commerce: 2010/09/30 All goods and services in the class are opposed, namely: Grape wine; Red wine; Table wines; Wine
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3156606	Application Date	04/04/2005
Registration Date	10/17/2006	Foreign Priority Date	NONE
Word Mark	1865 SAN PEDRO		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 033. First use: First Use: 2001/12/31 First Use In Commerce: 2005/03/30 WINES
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Attachments	H00175H00175NoticeofOpposition.pdf(35393 bytes) H00175ExhibitAtoNoticeofOpposition.pdf(74406 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Leigh Ann Lindquist/
Name	Leigh Ann Lindquist
Date	09/11/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re the Matter of

Applicant: Llano Estacado Winery, Inc.

Serial No.: 85680552

Mark: 1836

Published: August 13, 2013

Vina San Pedro Tarapaca S.A.,

Opposer,

V.

Llano Estacado Winery, Inc.,

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

Vina San Pedro Tarapaca S.A., a corporation of Chile, with an address at VITACURA N° 4380, VITACURA Santiago CHILE, believes that it will be damaged by registration of the mark 1836 shown in Application Serial No. 85680552 and hereby opposes same.

As grounds for the opposition, it is alleged that:

1. Opposer is now, and has for several years, been engaged in the sale of wine in the United States and abroad under the trademark 1865 SAN PEDRO.
2. Opposer's use of 1865 SAN PEDRO long precedes the filing date of Applicant's application for the mark 1836 and long precedes Applicant's claimed first use date in Application Serial No. 85680552.

3. By virtue of extensive advertising, sales and promotion of Opposer's goods in the United States under the trademark 1865 SAN PEDRO, the mark has become and is well and favorably known for wine. 1865 SAN PEDRO is a valuable symbol of Opposer's goodwill.

4. Opposer is the owner of U.S. Trademark Registration No. 3156606 for the mark 1865 SAN PEDRO & design for wines. A status copy of this registration is attached as Exhibit A.

5. The application herein opposed seeks to register the mark 1836 in International Class 33 for "Grape wine; Red wine; Table wines; Wine." Applicant claims a first use date of July 2008 and date of first use in commerce of September 30, 2010.

6. The goods in the opposed application are identical to the goods sold under Opposer's 1865 SAN PEDRO mark. Applicant's goods would be likely to be thought to have emanated from the same source as Opposer's goods, or to have been approved, endorsed or sponsored by Opposer, or to be related to Opposer's goods.

7. The trademark in the opposed application, as applied to the Class 33 goods set forth in that application, is confusingly and deceptively similar to Opposer's previously used and registered 1865 SAN PEDRO trademark.

8. Opposer believes and therefore alleges that the use and registration of the trademark 1836 by Applicant will damage Opposer, for the reasons, among others:

- a. That purchasers and persons in the trade will be confused or deceived as to the source and origin of Applicant's goods offered and sold under the mark 1836; and

b. Purchasers, persons in the trade and others will assume, contrary to fact, that Applicant's goods are associated with, sponsored by or otherwise related to Opposer.

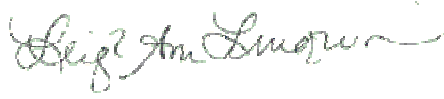
9. Registration of the mark sought by Applicant in International Class 33 herein is barred by the provisions of Section 2(d) of the Trademark Act of 1946 for the reason that it consists of or comprises a mark which so resembles Opposer's previously used and registered trademark as to be likely, when applied to the goods of Applicant, to cause confusion, mistake or deception.

10. WHEREFORE, Opposer respectfully prays that the registration sought by Applicant be refused and that this Opposition be sustained.

Please charge the \$300 opposition fee to the undersigned's Deposit Account No. 19-4880. Please charge any deficiency or credit any overpayment to Deposit Account No. 19-4880 as well.

Respectfully submitted,

Vina San Pedro Tarapaca S.A.

By: 

Leigh Ann Lindquist
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3202
Phone: (202) 293-7060
Fax: (202) 331-4308
Attorney for Opposer

Date: September 11, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION has been mailed this 11th day of September, 2013, by first class mail, postage prepaid to:

Ann Phillips Haag
McCleskey, Harriger, Brazill, & Graf, L.L.P.
5010 University Ave Fl 5
Lubbock, Texas 79413-4422

A handwritten signature in dark ink, appearing to read "Leigh Ann Lindquist", with a stylized, flowing script.

Leigh Ann Lindquist

EXHIBIT A

We are currently receiving reports that some users are unable to view documents using Trademark Status and Document Retrieval (TSDR). The problem is being addressed by staff at the USPTO. If you encounter difficulties with TSDR, please email TSDR@uspto.gov. We sincerely apologize for any inconvenience this may cause.

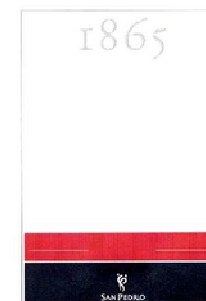
STATUS DOCUMENTS

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Mark: 1865 SAN PEDRO



US Serial Number: 78601293

Application Filing Date: Apr. 04, 2005

US Registration Number: 3156606

Registration Date: Oct. 17, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Nov. 02, 2012

Publication Date: Aug. 01, 2006

Mark Information

Mark Literal Elements: 1865 SAN PEDRO

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Color Drawing: Yes

Color(s) Claimed: The colors red, black and gray are claimed as a feature of the mark.

Color Location: The color red appears in the top rectangle in the mark, the color black appears in the bottom rectangle in the mark, and the color gray appears in the 1865 lettering in the mark and in the letter of the design and SAN PEDRO which appear in the black rectangle at the bottom of the mark. The color white is not part of the mark, but rather indicates a transparency through to the bottle and its contents.

Disclaimer: "1865"

Translation: The foreign wording in the mark translates into English as St. Peter.

Design Search Code(s): 20.03.10 - Alcohol bottle labels; Bottles, labels for alcohol bottles; Labels, alcohol bottles
26.11.11 - Rectangles divided twice into three sections
26.11.21 - Rectangles that are completely or partially shaded
26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Related Properties Information

Claimed Ownership of US [1241376](#), [1280897](#), [1571222](#) and others
Registrations:

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: WINES

International Class(es): 033 - Primary Class

U.S Class(es): 047, 049

Class Status: ACTIVE

Basis: 1(a)

First Use: Dec. 31, 2001

Use in Commerce: Mar. 30, 2005

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: Yes	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: VINA SAN PEDRO TARAPACA S.A.	
Owner Address: VITACURA NO 4380, VITACURA SANTIAGO CHILE	
Legal Entity Type: CORPORATION	State or Country Where Organized: CHILE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: LEIGH ANN LINDQUIST	Docket Number: S9340
Attorney Primary Email Address: tm@sughrue.com	Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: LEIGH ANN LINDQUIST
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DISTRICT OF COLUMBIA 20037
UNITED STATES

Phone: (202)293-7060

Fax: (202)293-7860

Correspondent e-mail: tm@sughrue.com

Correspondent e-mail Yes

Authorized:

Domestic Representative

Domestic Representative Name: LEIGH ANN LINDQUIST

Phone: (202)293-7060

Fax: (202)293-7860

Domestic Representative e-mail: tm@sughrue.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Nov. 02, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Nov. 02, 2012	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	67723
Nov. 02, 2012	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67723
Oct. 17, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Oct. 12, 2012	TEAS SECTION 8 & 15 RECEIVED	
Oct. 17, 2006	REGISTERED-PRINCIPAL REGISTER	
Aug. 01, 2006	PUBLISHED FOR OPPOSITION	
Jul. 12, 2006	NOTICE OF PUBLICATION	
Jun. 14, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	76984
Jun. 13, 2006	ASSIGNED TO LIE	76984
May 26, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 26, 2006	USE AMENDMENT ACCEPTED	78180
May 16, 2006	AMENDMENT TO USE PROCESSING COMPLETE	68549
May 05, 2006	USE AMENDMENT FILED	68549
May 09, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	77975

May 03, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	77975
May 05, 2006	TEAS AMENDMENT OF USE RECEIVED	
May 03, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Nov. 06, 2005	NON-FINAL ACTION E-MAILED	6325
Nov. 06, 2005	NON-FINAL ACTION WRITTEN	78180
Oct. 31, 2005	ASSIGNED TO EXAMINER	78180
Apr. 11, 2005	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use:

Affidavit of Incontestability:

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location:

Date in Location:

Assignment Abstract Of Title Information - [Click to Load](#)

Proceedings - [Click to Load](#)